

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LUIS A. GONZALEZ, et al.,

Plaintiffs,

-against-

H.K. SECOND AVENUE RESTAURANT,
INC., et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/7/2021

1:20-cv-04271 (MKV)

ORDER OF
DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

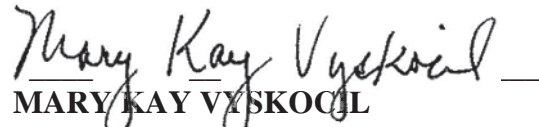
The Complaint in this action was filed on June 4, 2020 [ECF No. 1]. Defendants were served, but never responded to Plaintiffs' complaint. *See* ECF Nos. 10-13. After Plaintiffs took no action to prosecute the case, the Court dismissed the action without prejudice to reopening on October 26, 2020. *See* Order, ECF No. 14. Plaintiffs then moved to reopen the case (which the Court granted) and applied for certificates of default for all Defendants. Certificates of default were issued by the Clerk of Court on November 30, 2020. *See* ECF Nos. 26-28. Since then, Plaintiffs have taken no action to prosecute this case. Accordingly, it is hereby:

ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court's calendar if the application to restore the action is made by **May 7, 2021**. Any application to reopen this case must also explain why Plaintiffs have delayed more than four months in filing a motion for default judgment, and must include a proposed schedule on which Plaintiffs will file any such motion.

If no such application is made by that date, today's dismissal of the action is with prejudice. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

SO ORDERED.

Date: April 6, 2021
New York, NY


MARY KAY VYSKOČIL
United States District Judge